

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 931 Local Government Accountability

SPONSOR(S): Military & Local Affairs Policy Committee, Schultz

TIED BILLS: **IDEN./SIM. BILLS:** SB 1368

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	14 Y, 0 N, As CS	Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council			
3)	Government Accountability Act Council			
4)				
5)				

SUMMARY ANALYSIS

Current law provides for certain budgeting standards for local governmental entities.

This bill provides minimum budget standards for the following local governmental entities:

- Counties;
- Municipalities;
- Special Districts;
- Clerks of the Circuit Court;
- Sheriffs;
- Water Management Districts; and
- District School Boards.

This bill requires the posting of budgets and certain budget amendments relevant to each county, municipality, special district, and district school board on the local governmental entity’s website. The bill also provides that relevant documents must be posted on the website of the county or counties in which the entity is located if the reporting entity does not have an official website.

The bill also requires each local governmental entity, district school board, charter school, or charter technical career center to:

- File a copy of their audit report and annual financial report with the Department of Financial Services (DFS) within 9 months after the end of the fiscal year; and
- Have an annual financial audit completed within 9 months after the end of the entity’s fiscal year, if the entity has not been notified that the Auditor General will perform a financial audit.

Staff estimates that this bill would have no fiscal impact to state government and an indeterminate negative fiscal impact to local governments, which would result from the bill’s website posting requirements.

This bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This bill makes a series of changes to local government budget requirements to provide consistency among entities. The bill requires that, at a minimum, the budgets for most local governmental entities must show budgeted revenues and expenditures by organizational unit for each fund, as required by law and sound financial practices, and in a level of detail consistent with the annual financial report required under s. 218.32(1), F.S.¹ The specific changes are detailed below.

Website Requirement

The bill requires that counties, municipalities, special districts, district school boards, and water management districts all provide their tentative, adopted tentative, and final budgets on the local governmental entity's official website before the public hearings to address such budgets. If a municipality, special district, or district school board does not have an official website, its budget must be posted on the website of the county or counties in which the municipality, special district, or district school board is located. Any amended budgets must also be posted on the appropriate website. Further, each local governmental entity's website must link to the Department of Financial Services' (DFS) website to view the entity's annual financial report.

County Budgets

Present Situation

Chapters 129 and 218, F.S., address various county annual budget procedures. Sections 129.03 and 129.06, F.S., relating to county budgets, provide that:

- On or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, the tax collector and the supervisor of elections must each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing fiscal year. However, the board of county commissioners may, by resolution, require the tentative budgets to be submitted by May 1 of each year.
- No later than 15 days after certification of value by the property appraiser pursuant to s. 200.065(1), F.S.,² the county budget officer must present to the board a tentative budget for the ensuing fiscal year, including all estimated receipts, taxes to be levied, and balances expected to be brought forward and all estimated expenditures, reserves, and balances to be carried over at the end of the year.
- Upon final budget adoption, the adopted budgets must regulate the county expenditures and each special district included within the county budget, and the itemized expenditure estimates must have

¹ Section 218.32, F.S., addresses "annual financial reports; local governmental entities."

² Section 200.065, F.S., addresses "method of fixing millage."

the effect of fixed appropriations and must not be amended, altered, or exceeded except as provided in ch. 129, F.S.

- At any time within a fiscal year, the board may amend a budget for that year, and may amend the budget for the prior fiscal year within the first 60 days of a fiscal year.

Proposed Changes

The bill amends ss. 129.03 and 129.06, F.S., to:

- Clarify the applicability of the budget laws to include property appraisers;
- Delete obsolete language related to filing tentative budgets by May 1 of each year;
- Clarify that the applicable classification of receipts and expenditures will be the uniform system adopted by DFS;
- Clarify the budget amendment authority for counties and that the adopted budgets must regulate all expenditures of the county and each special district included within the county budget; and
- Provide that the applicable classification of accounts is the uniform method adopted by DFS.

County Entities

The budget procedures outlined in ch. 129 and 218 F.S., apply to the following county entities:

1.) Board of County Commissioners

Present Situation

Sections 129.01 and 129.07, F.S., establish the following budget guidelines for boards of county commissioners:

- An annual budget must be prepared, approved, adopted, and executed for the fiscal year for such funds as may be required by law or by sound financial practices and generally accepted accounting principles.
- Each budget must be prepared, summarized, and approved by the board of county commissioners of each county. Also, the budget must be balanced and must conform to the uniform classification of accounts prescribed by the appropriate state agency. The receipts division of the budget must include 95 percent of all receipts to be reasonably anticipated from all sources.
- It is unlawful for the board of county commissioners to expend or contract more than the amount budgeted in each fund's budget for an expenditure in any fiscal year, and the total appropriations of any budget must not be exceeded in any case, except as provided by law.

Proposed Changes

This bill amends ss. 129.01 and 129.07, F.S., to:

- Provide additional clarification regarding amounts to be included in the budget and that the budget must regulate all county expenditures;
- Clarify that a board of county commissioners may not exceed budgeted appropriations, except as provided in current law, and that the total estimated receipts are those "available from taxation and other sources, including balances brought forward from prior years, which must equal the total of appropriations for expenditures and reserves";
- Delete the requirement that the budget must conform to the uniform classification of accounts prescribed by the appropriate state agency; and
- Require the inclusion of all budgeted receipts rather than 95 percent of all receipts.

2.) County Supervisors of Elections

Present Situation

Section 129.201, F.S., relating to county supervisors of elections, provides that:

- Pursuant to s. 129.03(2), F.S.,³ each supervisor of elections must certify to the board of county commissioners, or county budget commission if there is one in the county, a proposed budget of income and expenditures to fulfill the duties, responsibilities, and operation of the office of the supervisor of elections for the ensuing county fiscal year.
- Each expenditure item in the supervisor of elections budget must be itemized.
- The board or commission must include in the county budget the items of proposed expenditures as set forth in the budget, which is to be submitted after the budget has been reviewed and approved.
- The reserve for contingencies in the budget of a supervisor of elections must be governed by the same provisions governing the amount and use of the contingency reserve appropriated in the county budget.
- The proposed budget must be submitted to the board of county commissioners or county budget commission pursuant to s. 129.03(2), F.S., and the budget must be included by the board or commission in the general county budget.
- The budget of the supervisor of elections may be increased by the board of county commissioners to cover such expenses for emergencies and unanticipated expenses as recommended and justified by the supervisor of elections.

Proposed Changes

This bill amends s. 129.201, F.S., to require each supervisor of elections to conform his or her budget to the requirements of ss. 129.01 and 129.03, F.S., and deletes itemization procedures.

3.) County Fee Officers

Present Situation

Section 218.35, F.S., relating to financial matters for county fee officers, provides that:

- Each county fee officer must establish an annual budget for his or her office that must clearly reflect the revenues available to such office and the functions for which money is to be expended. Also, the budget must be balanced.

Proposed Changes

This bill amends s. 218.35, F.S., to require county fee officers to conform their budgets to the requirements of ss. 129.01 and 129.03, F.S.

4.) Special Districts Within County Budget

Present Situation

Section 129.02(6), F.S., provides that, for each special district included within the county budget, the operating fund budget must:

- Contain an estimate of receipts by source and balances as provided by law; and
- Include an itemized estimate of expenditures that will need to be incurred to carry on all functions and activities of the special district.

³ Section 129.03(2), F.S., provides that, on or before June 1 of each year, the sheriff, the clerk of the circuit court and county comptroller, the tax collector subject to a resolution entered into pursuant to s. 145.022(1), F.S., and the supervisor of elections must each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing fiscal year. However, the board of county commissioners may, by resolution, require the tentative budgets to be submitted by May 1 of each year.

Proposed Changes

The bill amends s. 129.02(6), F.S., to require:

- Each dependent special district included within the county budget to show estimated receipts from taxation and other sources, including balances brought forward from prior fiscal years, which must equal the total appropriations; and
- Budgeted appropriations to include itemized appropriations for all expenditures to be incurred to carry on all functions and activities of the special district as provided by law, including indebtedness and the provision for required reserves, which should be carried forward at the end of the year.

Municipalities and Special Districts

Present Situation

Section 166.241, F.S., relating to budget procedures for municipalities, provides that:

- The governing body of each municipality must adopt a budget each fiscal year. The budget must be adopted by ordinance or resolution unless otherwise specified in the respective municipality's charter.
- The governing body of each municipality may amend a budget for that year at any time within a fiscal year or within up to 60 days following the end of the fiscal year.

Section 189.418, F.S., relating to reports, budgets, and audits for special districts, provides that:

- The proposed budget of a dependent special district must be presented in accordance with generally accepted accounting principles, contained within the general budget of the local governing authority, and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately.
- The governing body of each special district may amend a budget for that year at any time within a fiscal year or within up to 60 days following the end of the fiscal year. The budget amendment must be adopted by resolution.
- A local governing authority may, in its discretion, review the budget or tax levy of any special district located solely within its boundaries.

Proposed Changes

This bill amends ss. 166.241 and 189.418, F.S., to:

- Provide additional clarification regarding amounts to be included in the budget and certain guidelines related to the budget amendment process.

Clerks of the Circuit Court and Sheriffs

Present Situation

Section 28.36, F.S., establishes a budget procedure for the court-related functions of the clerks of the court, and s. 30.49, F.S., establishes a budget procedure for sheriffs.

Proposed Changes

This bill amends s. 28.36, F.S., to require each clerk of the court to conform his or her budget to the requirements of ss. 129.01 and 129.03(2), F.S.

The bill also amends s. 30.49, F.S., to require each sheriff to conform his or her budget to the requirements of s. 129.01, F.S., and deletes itemization in accordance with the uniform chart of accounts prescribed by DFS.

Local Government Annual Financial Reports

Present Situation

Section 218.32(1), F.S., provides for local governments to submit an annual report to DFS covering their operations for the preceding fiscal year within 45 days after the completion of the audit, but no later than 12 months after the end of the fiscal year. DFS makes an electronic filing system available to local governments that accumulates the financial information for these annual financial reports in a database, and makes that information available to the public in an electronic format.

Submission of the annual report depends on whether or not the local governmental entity is required to have an annual audit. The general guidelines for the submission of audit annual reports are as follows:

- If an audit is required, the deadline is no later than 12 months after the end of the fiscal year;
- If no audit is required, the deadline is April 30 of each year; and
- If DFS does not receive a completed annual financial report from a local governmental entity within the required period, DFS must notify the Legislative Auditing Committee,⁴ which must schedule a hearing.

Proposed Changes

This bill amends s. 218.32(1), F.S., to revise the audit schedule for local governmental entities. Under the provisions of this bill:

- If an audit is required, local governmental entities must submit a copy of the audit report and the annual financial statement to DFS within 9 months after the end of the entity's fiscal year instead of the current 12-month period; and
- If no audit is required, a local governmental entity's annual financial report must be submitted within 9 months after the end of the entity's fiscal year, and not by the current April 30 deadline.

Annual Financial Audit Reports

Present Situation

Section 218.39, F.S., provides that if a local governmental entity has not been notified that the Auditor General will perform an audit for that fiscal year, the entity must provide for an annual financial audit to be completed within 12 months after the end of its fiscal year.

The audit must be conducted by an independent certified public accountant retained by the entity and paid for from public funds. The local governmental entities that apply are:

- Each county, district school board, charter school, or charter technical center;
- Any city with revenues or expenditures and expenses in excess of \$250,000;
- Any special district with revenues or the total of expenditures and expenses in excess of \$100,000;
- Each city with revenues or the total of expenditures and expenses between \$100,000 and \$250,000 that has not been audited within the preceding 2 fiscal years; and
- Each special district with revenues or the total of expenditures and expenses between \$50,000 and \$100,000 that has not been audited within the preceding 2 fiscal years.

Proposed Changes

This bill amends s. 218.39, F.S., to provide that each local governmental entity, district school board, charter school, or charter technical career center that has not been notified that the Auditor General will perform a financial audit must have an annual financial audit completed within 9 months after the end of the entity's fiscal year, rather than within the 12-month period provided under current law.

⁴ The Legislative Auditing Committee is a joint committee comprised of 5 members of the Florida House of Representatives and 5 members of the Florida Senate.

This bill has an effective date of July 1, 2009.

B. SECTION DIRECTORY:

- Section 1: amends s. 28.36, F.S., relating to the budget procedure for the court-related functions of the clerks of the circuit court.
- Section 2: amends s. 30.49, F.S., relating to the budget procedure for sheriffs.
- Section 3: amends s. 129.01, F.S., relating to the budget system for the control of the finances of the boards of county commissioners.
- Section 4: amends s. 129.02, F.S., relating to the budget procedure for special districts.
- Section 5: amends s. 129.021, F.S., relating to county officer budget information.
- Section 6: amends s. 129.03, F.S., relating to the preparation and adoption of budget for counties.
- Section 7: amends s. 129.06, F.S., relating to the execution and amendment of budget for counties.
- Section 8: amends s. 129.07, F.S., relating to budget limitations for boards of county commissioners.
- Section 9: amends s. 129.201, F.S., relating to budget for county supervisors of elections.
- Section 10: amends s. 166.241, F.S., relating to budget procedures for municipalities.
- Section 11: amends s. 189.418, F.S., relating to reports, budgets, and audits for special districts.
- Section 12: amends s. 218.32, F.S., relating to annual financial reports for local governmental entities.
- Section 13: amends s. 218.35, F.S., relating to financial matters for county fee officers.
- Section 14: amends s. 218.39, F.S., relating to annual financial audit reports.
- Section 15: amends s. 373.536, F.S., relating to budget procedures for water management districts.
- Section 16: amends s. 1011.03, F.S., relating to budget procedures for district school boards.
- Section 17: provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The website posting requirements will have an indeterminate negative fiscal impact to local governments that are not currently providing this information on their websites.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Citizens will have access to local government annual financial reporting information in a format that is easier to understand.

D. FISCAL COMMENTS:

DFS and the Auditor General have indicated that this bill would not have an operational impact to their respective agencies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

It appears that this bill will require some counties or municipalities to spend funds or take an action requiring the expenditure of funds. Therefore, this bill may be subject to the mandates provisions of Article VII, section 18 of the Florida Constitution. However, staff notes that many local governments already have their own websites, so the provisions of this bill would only affect those local governments that do not have a website at this time.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 26, 2009, the Military & Local Affairs Policy Committee adopted a strike-all amendment and reported the bill favorably as a Committee Substitute. This strike-all amendment:

- Provided minimum budget standards for the following local governmental entities:
 - Counties;
 - Municipalities;
 - Special Districts;
 - Clerks of the Circuit Court;
 - Sheriffs;
 - Water Management Districts; and
 - District School Boards;
- Required the posting of budgets and certain budget amendments relevant to each county, municipality, special district, and district school board on the local governmental entity's website; and
- Provided that relevant documents must be posted on the website of the county or counties in which the entity is located if the reporting entity does not have an official website.

This analysis reflects the strike-all amendment adopted by the Military & Local Affairs Policy Committee.